1401 H Street NW
Suite 600
Washington DC
20005-2164

Tel (202) 326-7300
Fax (202) 326-7333
www.usta.org

September 20, 2002

SUMMARY OF
***EX PARTE* PRESENTATION**

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TWA325
Washington, DC 20554

Re: Ex Parte Presentation
CC Docket Nos. 02-52; 02-33; GN 00-185

Dear Ms. Dortch:

On September 19, 2002, Lawrence E. Sarjeant and I, on behalf of the United States Telecom Association (USTA), met with the following members of the Media Bureau, Marjorie Greene, Associate Bureau Chief, Mary Beth Murphy, Chief of the Policy Division, John Norton, Deputy Chief Policy Division, and Eric Bash, of the Policy Division, regarding the above-referenced proceedings. The purpose of this meeting was to discuss USTA's position regarding broadband high-speed Internet access. In accordance with Section 1.1206(b)(2) of the Federal Communications Commission's (FCC) rules, this letter and the attached outline used during the meeting are being filed electronically with your office.

In the meeting, USTA identified and discussed the core policy principles in the attached outline, which are reflected in its comments and reply comments in this proceeding. USTA specifically discussed the following issues: regulatory parity, universal service, access by Internet service providers (ISP) and consumer protection.

USTA stated that cable modem service is the current front runner in the broadband mass market. Incumbent local exchange carriers (ILEC) have no market power in the broadband mass market, or in the broadband larger business market, and are therefore non-dominant in both the retail and wholesale broadband markets. USTA went on to explain that the FCC has determined in this proceeding that cable modem service is an interstate information service and that parity requires that wireline broadband Internet access service should receive the same regulatory treatment. Moreover, USTA then explained that to ensure regulatory parity among the various broadband platforms, to the extent that a wireline broadband entity is providing stand-alone broadband transmission to unaffiliated ISPs, that offering should be classified as a private carrier service, not a common carrier service.

USTA stressed that the obligation to contribute to the universal service fund should apply equally to all providers of broadband and broadband services regardless of the

technology or platform employed. Section 254 of the Communications Act of 1934, as amended, provides the FCC with the discretion to require providers of interstate telecommunications to contribute to universal service support mechanisms should the FCC find that doing so serves the public interest. USTA believes that the public interest requires such a finding.

Further, regarding the issue of ISP access, USTA emphasized that open access for ISPs to broadband transport should be encouraged but not mandated because the market for broadband access to the Internet is competitive. USTA noted that open access is not mandated for cable modem by FCC rules.

Finally, USTA responded to questions concerning consumer protection. USTA explained that local exchange carriers are currently subject to both state and federal regulations that are designed to protect consumers. Regulations to protect consumers should only be considered where a problem has been clearly demonstrated and adequate resolution cannot be accomplished through individual customer complaints.

Please feel free to contact me if you have any questions.

Sincerely,

/s/Michael Thomas McMenamin
Michael Thomas McMenamin
Associate Counsel

Attachment
cc: Marjorie Greene
Mary Beth Murphy
John Norton
Eric Bash

UNITED STATES TELECOM ASSOCIATION
BROADBAND POLICY

- The broadband market has several substitutable platforms: wireline, wireless, satellite and cable.

- The broadband market should be viewed as an interstate market and should not be subject to state regulation. (*See* GTE Tariff Decision regarding DSL and FCC Orders concerning Internet Dial-Up service as related to reciprocal compensation).

- The FCC should find that retail and wholesale ILEC-provided broadband services are non-dominant and therefore not subject to tariffing requirements. (Both Mass Market and Larger Business Market).

- This deregulation should include market-based pricing freedom.

- The provision of wireline broadband Internet access service over a provider's own facilities is an information service.

- The transmission component of the end-user wireline Internet access services provided over the above facilities is "telecommunications" and not "telecommunications services."

- To ensure parity in regulatory treatment among the various broadband platforms, to the extent that a wireline broadband entity is providing stand-alone broadband transmission to unaffiliated ISPs, that offering should be classified as a private carrier service, not a common carrier service.

- In order to ensure effective advanced services deployment and reasonable pricing, carriers eligible for participation in the NECA pools should be allowed to "opt out" of broadband deregulation. In addition, such carriers may continue to have broadband services regulated under Title II of the Act and may keep broadband in the NECA pools and tariffs.

- Open access (defined as access by independent Internet Service Providers to provide content over the broadband network) should be encouraged but not mandated.

- An obligation to contribute to the universal service fund should apply equally to all providers of broadband regardless of the technology or platform used to provide the service.

- There should be a presumption against government or municipal operation of telecommunications networks generally, and broadband networks specifically, when private industry provides or indicates a willingness to provide such telecommunications service at a reasonable price. Government should not be permitted to use its governmental authority to advantage any government owned network competing with non-government owned networks.

- Municipalities should not impose burdensome rights-of-way requirements on broadband providers. Fees charged, if any, for public rights-of-way access should not exceed the actual and direct cost incurred in managing the public rights-of-way and the amount of public rights-of-way actually used by the broadband provider. In-kind contribution process to public rights-of-way should not be required. The FCC should vigorously enforce existing laws, (*e.g.* U.S.C. § 253).